G R S App I IX 4]

Previous References

1942 -
(ML)

File No 93-42
Serial Nos 1, 5

Later References

GENERAL AND REVENUE SECRETARIAT

Serial Nos

/

Part B for August 42

SUBJECT

Grant of a site to Mr Malasekera Lingappa Setty in The Kandyan Municipality

To,

Mr D C Kandy
L 1724 dt 7-8-42
Appeared of the

Aug 15 & 42

Serial No	
1	From The Deputy Commissioner Kadur District Letter No A 3 C 59/39-40 dated 29th June 1942 Submits a report in regard to the grant of a building site to one Mr Malasetra Lingappaiah by the Kadur municipal council and requests in the circumstances stated Sanction to the resolution of the Municipal Council, granting the site to the party 1) The Deputy Commrs report in regard to the facts of the case is stated to have been based on the available extracts from the resolutions of the Municipal Council and from the "Jo" and "from" registers of the Office the records relating to the agreement entered into with the party and further correspondence are reported to have been lost and are not available 2) The irregularity in the disposal of the site to the party was brought to the notice of Govt in 1936 and Govt directed that action may be taken by the Deputy Commr himself under

NOTE—Cont Sheet

v) Grant of a building site to one M. Malasetha Lingappa Setty - Kadur Municipality

File No 93 91/2 of 1942 | General and Revenue Secretariat

Serial No	
	under Section 36 of the Munic Municipalities Act (vide notes and orders in the previous collection put up) the then Deputy Commr annulled the resolution of the Municipal Council accordingly and directed the Municipal Council to take further action
	3) The municipal council after making some attempt to get back the site with the building thereon in accordance with the instructions of the Deputy commr, have finally resolved on 18-6-41 to confirm the grant of the site to the party, after recovering from him the Mohatarfa tax, from the date of the grant, as he had already paid a sum of Rs 640/- against the probable value of Rs 400/ for the site
	4) The Deputy Commr is of opinion that the municipality was at fault in having allowed the party to put up a structure on the site which was given away contrary to proper sanction & recommends that the proposal of the municipal Council may be approved. Subs for orders.

Mil 209-35
91/2-J

91-3 in

91 a' in this

6/8/7/42 GS 9/7

29/L

General and Revenue Secretariat — File No 93 of 1942 — [App F III-2

Serial No	
	5) The report received from the D.C. Kadur Distt gives the facts of the case in full. Its conclusions are based on sound grounds, having regard to the lapse of time of over 17 years on the disposal of the Lease. What was at first considered to be a lease has now become a transfer by sale.
	6 The suggestion of the D.C to restore the verdict of the Kadur Munsiff decreeing the suit to the Plaintiff, in modification of the orders passed by the Assistant Collector, then D.C of the District is for orders.
	Law dept for opinion.
	7 The terms of the lease is stated to have expired on 15-6-35. The party has been in possession of the land under the impugned lease from about 29-6-24. The lease deed is not available as it is not actually required just because the terms of the lease the Municipal

SECY LAW DEPT 105 3 JUL 1942 GOVT OF MYSORE

NOTE—Cont Sheet

WD C41 5—GPB—5 000—23-10 41

File No. of 194

General and Revenue Secretariat

Serial No

Council passed a resolution on 21-7-35 & fell hunt the land & recovered judgment not only the full price of Rs 4000/— but also interest of Rs 240/— and he has built a house on it at a cost of Rs 1500/— He has also agreed to pay Secretary's Court fee as fixed by the D-C no court fee would, on ground of equity, have to be given a decree for possession but would only decree for payment of the value & that has been recovered. Nothing remains to be recovered. Balance Treasury 24/ by 21/ C/F Individuality Rs 3 Mussa per Rs 1 under the Collector's powers to give a grant of

Granting a site of two Kanals to the M—
Lutheran Society — 291. (

General and Revenue Secretariat — File No 93 of 1942 — [App F III—2

Serial No

my notice & court have now
(as ordered by the Hon'ble Mr. Justice
[illegible]; the Then
D C on 1-5-36) on the
technical ground that
the land was disposed
of without obtaining
the sanction of the D C
Therefore the
recommendation of
the D.C. may be accepted
Cus

OFFICE OF THE MINISTER FOR L S G & P H
Date 20-7-42
No 658

Minister L S G — 20-7-42
for M/Lus

3) The resolution of the municipal
Council granting the site to
the party approved

by
22 7 42
Cus
23-7-42

4) Appl
for M/Lus

Off- letter to the Deputy Commr, Kadapa
is put up for appl

Law Dept
27/7/42

for M/Lus

Cus
5-8-42
Issue
for M/Lus

SECY LAW DEPT 138 3 AUG 42 GOVT

NOTE—Contn Sheet

WD 04155—GPB—55 000—23 10 41

Serial No 93 of 1942 — General and Revenue Secretariat

Serial No 5

To the Deputy commr Kadur Dt
No L 17244 dated 7th Aug 1942
Approves of the resolution of
the Local council granting the site
to the party Mr Malasetra Linga Patel B

29/L

Office of the Deputy Commissioner,
Kadur District,
Dated, Chikmagalur 29th June '42

C No C 56/39-40
Record or file

93-42-1

From

The Deputy Commissioner,
Kadur District,
Chikmagalur

2 JULY 1942
LSGL

To

The Secretary to Government of Mysore,
Law Department, Bangalore

1 JULY 1942
SECY LAW DEPT
GOVT OF MYSORE

Sir,

Subject - Re The grant of a building site belonging to the Kadur Municipality to one Mr Malasetra Lingappa Setty in the Kadur Minor Municipality

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In forwarding herewith, the entire file of records on the above subject, I have the honor to state as follows -

1) The Kadur Minor Municipal Council is stated to have entered into a contract with one Malasetra Lingappa Setty of Kadur, as per their resolution dated 29-8-1924 (in the terms of the contract were that a site measuring 24' x 21' by the side of the Lucafirkhana building at the place should be given free of cost to the party by the Municipality and he should construct a house thereupon according to an approved plan and must agree to hand over the site and the building thereon to the Municipality without any costs whatsoever, after a period of ten years The party should also pay the Kandayam levied by the Municipal Council It was also resolved that a registered agreement should be got executed on the above terms The party executed a stamped agreement on the above terms, but the final contract deed does not appear to have been executed and registered. The party, however, erected a building on the site in question The records relating to the agreement and the further correspondence in the matter is said to have been misplaced and in

spite of many attempts to trace them, they are not found all the facts of the case no ascertained are based on the previous Resolutions of the Municipal Council, and extracts from "To" and "From" registers

2 It is seen from the resolutions of the Municipal Council dated 31-5-23, 11-6-25, 8-7-26 and 15-7-26 that the party applied to the Municipal - Council on 30-4-26 requesting for the grant of the site in question at an upset price The Municipal Council, after deferring the matter in three successive meetings, took up the same on 15-7-26, when, out of the eight councillors present, five were in favour of - granting the site and the buildings to the party and the rest were opposed to this Even among the five, who recommended the grant some were not for recovering any upset price at all The party was not served with any endorsement to that effect The party again applied to the Municipal President on 14-12-1933 stating that the question of granting him the site at an upset price has long ago been decided by the Council and that no endorsement was issued to him, whereupon an endorsement was issued to him by the the President in accord nce with resolution of the Municipal Council dated 23-7-34, t t the site will not be given to him and that he must vacate the house and the site within 10 days of the - service of the notice, failing which, a monthly rent of Rs 25 would be ~~charged~~ Charged

3 The party in person appeared before the Municipal President on 26-6-1935 and gave a statement stating that relying on the previous decision of the Municipal Council he purchased an adjoining site and built a house on these sites and it would be a great hardship on him if he is compelled to vacate the land and the house and prayed for orders to grant him the site at an upset price fixed on the sale amount on the adjoining sites

The matter was again taken up for consideration by the Municipal Council, who resolved at their meeting held on 21-7-1935 that the site be granted to the applicant after recovering sum of Rs 640/- as noted below -

1) Rs 400 representing the value of the site based on the previous valuation,

2) Rs 240 being the interest at 6% on this sum for a period of ten years

Accordingly, the party credited a sum of Rs 640 to the Municipal funds on 23-7-35 and obtained a title-deed - from the Municipal Council on 1-8-35

4 In this connection, It may be stated here that though the agreement and the connected records are not forthcoming and though the contract deed was not executed and registered as per the resolution of the Municipal - Council dated 29-8-1924, there is sufficient evidence to show that the party was all along acknowledging the terms of the contract and was requesting for the grant of the site to him at an upset price The period of the contract is reported to have expired by 15-8-1935 At this stage, a confidential petition was received in the matter and the then Deputy Commissioner made a communication to Government on 30-3-36 seeking instructions in the matter The Secretary to Government, Development Department stated in his letter No L 7993/ 1 209-35-2 dated 21st April 1936, that the Deputy Commissioner was competent to deal with the case and that he may take necessary action under Sec 36 of the Minor Municipalities Act 1933, Accordingly, the then Deputy Commissioner, Mr M Abdul Rahim, passed an order on 1-6-36 annulling the resolution of the Municipal Council granting the site under Sections 35 and 36 of the Minor Municipalities Act 1933, on the ground that the disposal of the site by the Municipal Council without obtaining the sanction of the Deputy Commissioner as required

under Rule 2 of the Rules issued with Government Notification RO L 2375/11 113-33-2 dated 12th October 1933 was irregular An endorsement was accordingly issued to the party directing that he should hand-over the building and the site on which it stands, to the Municipality within one month and that as he is in the enjoyment of the building even after the expiration of the period of the lease, he should also pay a rent to be fixed by the Municipality

5 As the party did not comply with the endorsement, the Municipal Council resolved at their meeting held on 14-7-36 that after obtaining the instructions from the Deputy Commissioner a suit be filed against the party for possession of the site and building The records were sent to the Sub Division Officer, Kadur, on 21-9-37, for inspecting the building and valuing the same and if possible settling the question out of court by getting a suitable donation from the party for a public purpose As the party refused to make any donation, Mr B S Raghavendra Rao, the then Deputy Commissioner ordered on 3-11-37, that a suit may be filed It is seen from the resolution of the Municipal Council dated 13-3-41 that they are not in favour of filing the suit against the party they are of opinion that the Site may be confirmed to the party on recovering mohatarfa tax from him from the date of grant, as they are doubtful whether a suit for possession would succeed in the absence of a registered document relating to the property The party has also agreed to pay the tax from the date of grant of the site

6 The Public Prosecutor, Chikmagalur, who was consulted in the matter, states that a suit can be successfully maintained against the party for the possession of the site I have discussed the subject with

with the Ex-Officio President of the Municipality and also with the Public Prosecutor The Municipality have now recovered a sum of Rs 640 as against the probable and reasonable value of Rs 400 for the site I do not consider it necessary to file a suit against the party He has built a structure on the site, costing about Rs 1,600 and I do not think any court would, on grounds of equity, order its being pulled down, and give the site back to the Municipality At best, the court may order the site being paid for at a fair valuation The Municipality has already realised more than the fair value After all, the Municipality was also at fault in having exceeded its - powers and giving the site without proper sanction, and in having allowed the party to put up the structure On - equitable grounds, I think it better to drop the proceedings

7 But, as one of my predecessors has already annulled the resolution, I cannot revise the order In these circumstances, I request that orders of Government may be kindly obtained to restore the resolution of the Madur Municipal Council granting the site to the party

8 The connected records are enclosed for reference and obliging return

I have the honor to be,
Sir,
Your most obedient servant,

Deputy Commissioner
Madur District

G R S App F VI—G 2]

SUBJECT

Diary No of letter replied to

General and Revenue Secretariat

( )

the 193

Date of issue 7/8/42 193

Signed by [signature]

May this be—

(i) printed ?

(ii) treated as a standing order ?

(iii) published in the Gazette English Part ?

(iv) translated ?

(v) placed at the disposal of the press ?

(vi) published in the Gazette Kannada Part ?

Section Mel

File No 93-42

Serial No 57

Proceedings of the Government of His Highness the Maharaja of Mysore

Read— Letter No A3-CS 9/29-40 dated 29th June 1942 from the Deputy Commr, Kadur Distt; submitting a report on the grant of a building site belonging to the Kadur Municipality to one Imalasetna Dingappa Order thereon—No. Setty of the place & No 1/17th dated

It is reported by the Deputy Commr that the the Municipal Council entered into a contract on 1st Jan 1924, with Imalasetna Dingappa Setty, the terms of the

Contract being that a
a site measuring 24' x 21'
by the side of the Imsafekhana
as the plan showed be
given free of cost to the party
by the Municipality and that
he should construct a house
thereon according to approved
plan and should agree to
hand over the site and the
building thereon to the Municipality
without any claim amount after a period
of ten years, the party
is stated to have executed
a stamped agreement on
the above terms though
the final contract does not
appear to have been executed
and registered, the party is stated to have
erected a building on
the site in question. The records relating to the subject
matter of these cases are
not forthcoming

It is also reported
that the party went on
applying to the Municipal
Council

List of Enclosure

Copied by

Examined by

WD 0.64—GPE—22,500—9 1 39

G R S App F G 3

GENERAL AND REVENUE SECRETARIAT

(*Continuation sheet draft form*

for the grant of the site in question at an upset price, though he was served with an endorsement in 1934 in accordance with a resolution of the Mul council to vacate the house & the site in question. On a further representation by the party in 1935, the Municipal Council resolved to grant the site to the applicant after receiving (Rs 640/- as security Rs 400 towards the value of the site & Rs 240/- towards interest on the above sum for a period of ten years) which the party is stated to have credited to the Municipal funds & obtained a title deed from the Mul C

At this stage, the irregularity in the disposal of the site

On the period of Contract copied by 15 & 35

WD 0186—G"B—15 000 6 9 34

having come to the notice of
the then Dy commr, he
passed an order in the year 1936
annulling the resolution
of the Mpl council, under
Sections 35 & 36 of the Mpal
Municipalities Act - 1933, and
an endorsement was also
issued to the party directing
him to hand over the buildings the
site to the Municipality
The party did not comply
with the order, but the Mpl council are stated to have
on 18-6-41
finally resolved that
the site be conferred to
the party on receiving from the party
the market value the entire site & the building
from the date of grant,
which the party has agreed to
pay
In the above circumstances, ~~the Govt is requested to~~
the Deputy Commr recommends
that the resolution of the
Mpl council

G R S App F G 3

GENERAL AND REVENUE SECRETARIAT

(*Continuation sheet draft form*

granting the site to the
party be returned Govt
agreement with the opinion of the
Dy Comm[r] accordingly approve of
the resolution of the Board
granting the site in question to the
party vz Malaseetia Dispensary
Sett[s]

Sec[y] to Govt
Law Depart[t]

Dy Comm[r] Kaira
with records

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

R e a d :-

Letter No.A3-C59/39-40 dated 29th June 1942 from the Deputy Commissioner, Kadur District, submitting a report on the grant of a building site belonging to the Kadur minor municipality to one Mr Malasetra Lingappa Setty of the place.

O R D E R No. L 1724 / Ml 93-42-5

Dated, Bangalore, the 7 August 1942.

It is reported by the Deputy Commissioner that the municipal council entered into a contract in the year 1924, with one Mr.Malasetra Lingappa Setty, the terms of the contract being that a site measuring 24' x 21' by the side of the musafirkhana at the place should be given, free of cost, to the party by the municipal council and that he should construct a house thereon according to approved plan and should agree to hand over the site and the building thereon to the municipal council without claiming any amount after a period of ten years. The party is stated to have executed a stamped agreement on the above terms. Though the final contract does not appear to have been executed and registered, the party is stated to have erected a building on the site in question. The records relating to the subject and further correspondence are not forthcoming.

It is also reported that the party went on applying to the municipal council for the grant of the site in question at an upset price, though he was served with an endorsement in 1934 in accordance with a resolution of the municipal council, to vacate the house and the site in question as the period of contract expired by 15th August 1935. On a further representation by the party in 1935, the municipal council resolved to grant the site to the applicant after recovering a sum of Rs.640/- (Rs.400 towards the value of the site and Rs.240/- towards interest on the above sum for a period of ten years) which the party is stated to have credited to the municipal funds and obtained a title deed from the municipal council.

At this stage, the irregularity in the disposal of the site having come to the notice of the then Deputy Commissioner, he passed an order in the year 1936 annulling the resolution of the municipal council, under sections 35 and 36 of the minor municipalities Act 1933, and an endorsement was also issued to the party directing him to hand over the building and the site to the municipality

The party did not comply with the order but the municipal council

are stated to have finally resolved on 18th June 1941 that the site be confirmed to the party on recovering from him the mohatarfa tax due on the site and the building from the date of grant, which he has agreed to pay.

In the above circumstances, the Deputy Commissioner, Kadur District recommends that the resolution of the municipal council granting the site to the party be restored. Government agree with the opinion of the Deputy Commissioner and accordingly approve of the resolution of the municipal council granting the site in question to the party viz Mr.Malasetra Lingappa Setty.

For Secretary to Government,
Law Department.

To

The Deputy Commissioner, Kadur District with records.

mk3